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new 6-13-02
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

Jeffrey ALNWICK

Technology Center: 2100

Serial No: 09/732,738

Filed : December 11, 2000

For : METHOD AND SYSTEM FOR ORDERING
ITEMS OVER THE INTERNET

REQUEST FOR RECONSIDERATION OF PETITION
TO MAKE SPECIAL UNDER M.P.E.P. §708.02

Commissioner of Patents and Trademarks
Washington, DC 20231

Received

APR 24 2002

Attn: **Pinchus M. Laufer**
Special Programs Examiner

Technology Center 2100

Sir:

Applicant hereby requests reconsideration of the dismissal of the Petition to Make Special for this pending application, which has not yet received examination by the Examiner. The Petition was mailed to the Patent Office with a Certificate of Mailing on October 15, 2001, and the dismissal of this Petition was mailed on April 11, 2002. Since the Petition was dismissed for failure to submit a "detailed discussion of the references" and how the "claimed subject is patentable over the references", we are providing a new detailed discussion of references at the present time. We also are providing a Second Preliminary Amendment, amending the claims to more particularly define over the prior art.

All the claims in this application are directed to a single species. If the Office determines that all the claims presented are not obviously directed to a single invention, then applicant will make an election without traverse as a prerequisite to the grant of special status.

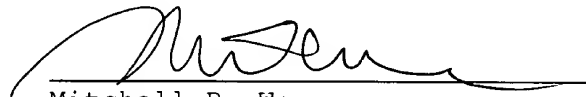
The search has been made by the undersigned attorney in the following subclasses:

Class 705, subclasses 17, 20, 26, 27, 28 and 29.

Since all of the cited prior art references were submitted with the original Petition, it is believed that there is no need to resubmit the copies of these references.

As previously indicated, we are submitting herewith a detailed discussion of the references, which discussion particularly points out how the claimed subject matter is distinguishable over the references. It is believed that no additional fee is required, however, if this is not the case, please charge any additional fees to deposit account No. 08-2455.

Respectfully submitted,



Mitchell B. Wasson
Reg. 27,408

April 23, 2002

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Attorney's Docket: 02-0377.RFR/eb

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In re the application of:

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DETAILED DISCUSSION OF REFERENCES

APR 24 2002

Commissioner of Patents and Trademarks
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Technology Center 2100

Attn: **Pinchus M. Laufer**
Special Programs Examiner

Sir:

The present invention as currently claimed in the accompanying second Preliminary Amendment is directed to a system for allowing buyers to search an inventory of items provided by at least two vendors. An exchange platform is provided at a location remote from the buyers and the vendors. This exchange platform would include information such as the vendor's inventories, thereby allowing the buyers to review the inventory of each of the vendors. A transmission means is provided for transmitting the inventory from the vendors to this exchange platform. The exchange platform would allow vendors to participate in the system as search time participants, order time participants or real time participants. The difference between search time participants, order time participants or real time participants is generally related to the frequency of which inventory information is updated between the vendors and the exchange platform. Inventory from search time participants would be updated on a relatively infrequent basis. Inventory information from order time participants would be updated more frequently, but generally not in intervals shorter than five

minutes. Real time participants would more frequently update their inventory information than order time participants, particularly based upon the placement of an order by one or more of the buyers.

The present application recites 13 claims including independent claim 15. All additional claims depend either directly or indirectly from this claim. It is noted that claim 1 has been deleted by the accompanying second Preliminary Amendment. Claim 15 recites a system in which the exchange platform allows vendors to be search time participants, order time participants or real time participants. As indicated herein above, a vendor would be classified as a search time participant, an order time participant, or a real time participant based primarily upon the frequency in which the inventory information was updated from each vendor to the exchange platform through a transmission means recited in claim 15.

The following references were deemed to be relevant to the present invention.

4,992,940	Dworkin
5,940,807	Purcell
6,009,413	Webber et al
6,014,644	Erickson
6,023,683	Johnson et al
6,055,516	Johnson et al
6,081,789	Purcell

Purcell '807 and Purcell '789 are both directed to automated and independently accessible inventory information exchange systems. Since both of these patents are virtually identical, they will be discussed together. As shown in Fig. 1 of both of these patents, a host management system 10 is established within a computer system managing and processing information provided by a plurality of remote sellers 21, 22, 23 and 24. A plurality of remote buyers 41, 42 and 43 would also have access to the host information management system. Although it is contemplated that individual sellers would have their own areas in the host management system 10 in which their respective

inventory information was included, both Purcell patents are directed to a system in which information in the sellers' areas would be retrieved, processed and manipulated into a buyer's display into which a plurality of buyers would have access for reviewing up-to-date information about the seller's merchandise. Therefore, as indicated in column 6, lines 30-49 of Purcell '789, the system as described in the Purcell patents would be used as a filter of the several sellers inventories for compiling a listing of total available merchandise based upon information provided by each of the buyers. Therefore, when a prospective buyer logs on to this system, they would not necessarily view all of the inventory supplied by one or more of the sellers associated with this system. Furthermore, as indicated in the paragraph bridging columns 6 and 7 of Purcell '807, "the information from the several sellers' areas is either continuously monitored or intermittently examined on a regular, but frequent basis to extract relevant changes from the several available inventories. The withdrawn information is compiled to present a uniform product listing that may include a listing of each product of each seller, or alternatively a listing may be filtered to show a unified listing of products wherein each product has a single entry regardless of the number of sellers having that particular product for sale."

The present invention as recited in claim 15 is directed to a system in which a plurality of buyers can purchase products or services from a plurality of vendors. This system contemplates that various types of vendors would be participants in this system. Based upon this type of participation, the vendor's charges to participate in the system would vary. For example, since the inventory from a search time participant would be updated relatively infrequently, these search time participants would be charged at a relatively low rate. Since the inventories of the order time participants would be updated more frequently, they will be charged at a higher rate than the search time participants. Finally, since the inventory of the

real time participants would be updated even more frequently than the order time participants, they would be charged at a higher rate than the order time participants.

While the system described in both of the Purcell patents is generally directed to a system in which a plurality of buyers can order products and services from the inventories of one or more sellers, there is no indication that different types of sellers would participate in the system described in the Purcell patents based upon the frequency in which their respective inventories were updated. Therefore, since claim 15 of the present application specifically recites a system including search time participants, order time participants or real time participants, this claim is not anticipated by either of the Purcell references. Furthermore, since there is no suggestion that the systems outlined in the Purcell patents differentiates the type of sellers which would utilize that system, it is believed that it would not be obvious to modify the systems shown in the Purcell patents to produce a system in which vendors would be search time participants, order time participants or real time participants as required by the language in claim 15 of the present application.

The patent to Dworkin describes a system and method for the automatic selection of equipment for purchase through the input of user desired specifications. A plurality of vendor 9a, 9b, 9c and 9d are connected to a CPU 1. The operation of the Dworkin system is described in the first three full paragraphs in column 2. According to Dworkin, one of the buyers must inform the system of the general type of product or service desired by completing a template shown on the buyer's computer screen. The system would then search the database for all products or services which would fulfill the minimum requirements of the user based upon the completed template. The system would then display general information about the products, including a range of available prices and an internal number or designator. When the user would enter this internal number or designator, additional

information would appear, such as where the product or service can be obtained. The user can then order a product or service through the system by selecting one of the retrieved products or services by its internal number or designator. Therefore, each buyer would not have the opportunity to review each of the vendor's inventories, since the purpose of the Dworkin system is to eliminate such a review by requiring the system to search through the inventories based upon the potential buyer's input and to display only any products and services which met this requirement. Consequently, the buyer does not review the inventory of the vendor as specified in claim 15 of the present invention. Furthermore, although it is noted in column 10, lines 46-53 that information about products, services and suppliers must be updated periodically, at regular intervals, based upon information received from the suppliers, there is no teaching in the Dworkin reference indicating that the frequency of which each of the vendors' inventories would be determined based upon the type of vendor, i.e., whether the vendor was a search time participant, an order time participant or a real time participant.

Claim 15 of the present invention relates to a system which specifically indicates that the vendors would fall into various groups such as search time participants, order time participants or real time participants based upon the frequency in which their respective inventories were updated. Furthermore, claim 15 specifically recites a system including reviewing means provided with each of the buyers for reviewing the inventory of each of the vendors. Clearly, the Dworkin patent does not allow the review of the inventories of the vendors by the buyer since that would defeat the purpose of the Dworkin system which would be to allow the buyer to specify various requirements of a product or service and have the computer system search the inventories of the vendors to prepare, at best, an abbreviated listing of products from each of the vendors. Therefore, it is

believed that the teachings of claim 15 of the present invention are not anticipated or suggested by the Dworkin patent.

Johnson et al '516 is a continuation application of Johnson et al '683 and since the specification of both of these patents are virtually identical, they will be discussed together. Both of these patents are directed to electronic sourcing systems and methods. A local computer 20 which is preferably located at or near a customer site is provided with catalog databases 36 comprised preferably of at least two vendor product catalogs. It is noted that the local computer 20 would be used by a customer to conduct a search through the catalog databases 36. These databases would preferably include such information as part number, price, catalog number, vendor name or identification, vendor catalog number as well as textual information and images of or relating to the catalog products. This computer would be used in conjunction with a host computer 10 having host databases 11. These host databases may include such information as the description of the items and quantities there are available at a particular distributor warehouse and other distributor warehouses; items records for each product regularly sold by the distributor; discount record by the customer; and cross-references from the distributor's catalog number to its corresponding vendor's catalog number and similar corresponding catalog number. After the customer has conducted a search of the catalog database 36 and it is determined that a particular product is available based upon communication between the local computer 20 and the host computer 10 including the host databases 11, a requisition order would be prepared and the product ordered. Since the Johnson et al patents indicate that they inventory information is located on the local computer 20, it is apparent that this computer is not located at a location remote from the buyer and the vendors as required by claim 15 of the present invention in which the exchange platform provided at a location remote from the buyer and the vendors includes inventory information. Furthermore, the Johnson et al patents do not

address the situation of updating the inventory of the vendor. Certainly, these Johnson et al patents do not concern themselves with different types of vendors such as search time participants, order time participants or real time participants in which the inventory of each of the vendors would be updated at different frequencies. Therefore, it is submitted that the Johnson et al patents do not anticipate the present invention as recited in claim 15 or suggest the inclusion of search time participants, order time participants or real time participants since the question of updating inventories is not addressed in both of these patents.

The patent to Webber et al describes a system for real time shopping in which inventory information from a plurality of merchants is sent to a regional host 18 and the information contained therein is then set to a computer network 22. Alternatively, information from these merchants can be sent directly to the computer network 22. The computer network 22 is equipped with a software program 24 designed to receive the data collected from the various merchants, put it in a usable protocol and organize it for each user so that all of the product/service information requested by a user is contained in one on-screen presentation (see column 3, lines 30-37). The network database receives updated information regularly from the various merchants in an automatic downloading that may occur in a batch mode one or more time a day. Additionally, the network database can receive updated information in real time from the various merchants as the information is updated (see column 4, lines 11-16). In use, the user would input requests parameters to an interface for a search. The network host, through network software, would access the network databases and would process the requested information into a usable protocol enabling user interface management software to provide the data to the user in an appropriate presentation. It is important to note that although the patent to Webber et al indicates that inventory information can be updated in a batch mode, once or twice a day

as well as in real time, there is no indication that three types of vendors could utilize the system according to the present application. These participants would be search time participants, order time participants or real time participants. The purpose of these three types of participants would be to allow a vendor latitude in determining the frequency in which his particular inventory information should be updated. Based upon this frequency, the particular vendor would be charged a greater or lesser fee. The inclusion of the search time participants, the order time participants or the real time participants is specifically recited in independent claim 15 and is not anticipated or suggested by the Webber et al patent.

The patent to Erickson shows a centrally coordinated communication system with multiple broadcast data object and response tracking. As shown in Figure 1, a service provider 14 is used to receive and transmit information provided to it by a plurality of buyers 10 as well as a plurality of suppliers 12. A central database 16 is associated with the service provider 14 and local databases 18, 20 are associated with the buyers 10 and suppliers 12 respectively. While the system shown in the patent to Erickson would allow buyers to browse various suppliers' catalogs, the main thrust of this patent would be for buyers to submit proposals to be acted upon by the suppliers to complete a particular job. The patent to Erickson would allow various dates to be tracked to insure compliance of the various bids. Although various inventory information of the suppliers 12 must be updated, it is not important to the Erickson patent the manner and frequency in which this updating is accomplished. Consequently, the patent to Erickson does not anticipate a system in which inventory is updated based upon the type of vendors utilizing the system, i.e., search time participants, order time participants or real time participants. Since the Erickson patent does not address the situation in which it is important to update inventories in one of several timely manners, the patent to Erickson could not possibly suggest the subject matter

recited in claim 15 including vendors being search time participants, order time participants or real time participants.

It is believed that none of the references cited herein anticipate or suggest the system as recited in claim 15 of the present invention. Claim 15 recites a system for enabling at least one buyer to review the inventory of at least two vendors utilizing an exchange platform provided at a location remote from the buyer and the vendors. Vendors would be characterized as search time participants, order time participants or real time participants depending upon the frequency in which inventory is updated by these vendors. The frequency in which the inventory would be updated by the search time participant would be less than the frequency of the updating of the information by the order time participants. Additionally, the frequency of updating the real time participants would be greater than the frequency of updating the order participants. Not a single reference included herewith describes a system including three types of vendors, the vendors being classified according to the frequency in which their inventory would be updated. Therefore, none of the references anticipate the subject matter of the invention as recited in claim 15. Furthermore, none of the references taken by themselves or in combination with any of the other references, it is submitted, would suggest the subject matter recited in claim 15. One of the purposes of the present invention is to allow variously sized vendors to participate in the system recited in claim 15. Based upon the size of these vendors, their inventories would be updated at different frequencies and consequently, the charge that each of the vendors would pay to participate in this system would be based upon the frequency of the inventory update. Since none of the references described herewith are directed to the situation, it is submitted that the claim language included in claim 15 would not be suggested by any combination of these reference.

Finally, since it is submitted that the single independent claim is not anticipated or suggested by any of the

references recited herein, dependent claims 2, 3 and 5-14, which either directly or indirectly depend from independent claim 15 would also not be anticipated or suggested by these references.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Mitchell B. Wasson", is written over a horizontal line.

Mitchell B. Wasson
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April 24, 2002

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